

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SAUL QUIZET RIVERA *et al.* :  
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Plaintiffs, :  
: 15-CV-6293 (JPC)  
-v- :  
:  
GRILL ON 2ND LLC *et al.* :  
:  
Defendants. :  
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JOHN P. CRONAN, United States District Judge:

Counsel for Plaintiffs shall be prepared to discuss the following issues, in addition to others, at the default judgment hearing scheduled for May 24, 2021 at 11:00 a.m. Moreover, counsel who appears at the hearing must be sufficiently familiar with the case and the damages calculations advocated by Plaintiffs, and should be ready to answer detailed questions from the Court.

1. Paragraph 105 of the Declaration of Michael Faillace, Esq. in Support of Plaintiffs' Motion for Default Judgment, Dkt. 105 ("Faillace Declaration" or "Faillace Decl."), states that Plaintiff Rivera was paid \$473.00 per week from March 2015 to June 2015. It is unclear from the materials cited, *see id.* ¶ 44, how this figure was calculated. Counsel should be prepared to provide the Court with a clear explanation of this calculation.
2. The Faillace Declaration states that Plaintiff Perez was paid on a weekly basis. *See id.* ¶¶ 119-121. It appears that Plaintiffs assume that Perez was not paid overtime as part of this weekly payment. *See id.* ¶¶ 119-121. The Faillace Declaration does not provide any explanation for the basis of that assumption. Plaintiffs should be prepared to point the Court to any relevant authority that support treating the weekly payments to Perez in the manner advocated.

3. Paragraph 129 of the Faillace Declaration calculates the total that Plaintiff Leal was underpaid as \$2,392. It appears this is an error as the actual total—based on the calculations advocated in the Faillace Declaration—should be \$2,324.
4. Plaintiffs seek \$10,000 per plaintiff in statutory damages. *Id.* ¶ 135. Plaintiffs shall be prepared to explain why the Court should not in its discretion award a lower amount than the maximum allowed under the applicable statutes.
5. The Faillace Declaration requests \$89,438.39 in damages and other penalties and \$12,090 in attorneys' fees and costs. *Id.* ¶ 144. But Plaintiffs' proposed default judgment requests damages and other penalties totaling a much higher figure. Dkt. 106. With regard to attorneys' fees, Plaintiffs' proposed default judgment does not mention the \$12,090 figure, but instead requests either \$20,680.60 or some other amount. *See id.* at 3. Similarly, the Faillace Declaration mentions a lodestar amount of \$20,680.60. Dkt. 105 ¶ 143.
6. The proposed default judgment further requests \$27,986 and \$26,783.60 in damages for Plaintiffs Rivera and Soto. Dkt. 106 at 2. Based on Plaintiffs' calculations and representations, it appears these figures should be \$26,986 and \$26,783.20, respectively. Counsel should be prepared to explain the amounts sought for these Plaintiffs (and for the other Plaintiffs) and be prepared to articulate the basis for all proposed damages calculations.

All attorneys at Michael Faillace & Associates, P.C. are reminded of the importance of proofreading submissions before filing them with the Court.

SO ORDERED.

Dated: May 23, 2021  
New York, New York



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JOHN P. CRONAN  
United States District Judge